

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

IRMA PEREZ, JOHN ESPINO,
JOSHUA ESPINO, JEREMY ESPINO, and
MANUEL ESPINO,

Plaintiffs,

V.

JOHN and JANE DOE(S) 1 THROUGH 10;
RICK SCHMIDT; RAELEE VAN WINKLE;
JERRY ESCH; MICHAEL DOREMUS;
KELLY SCARLETT; and ALLEN SEDLAK,
All of Whom Are Named Defendants In Their
Individual Capacity,

Defendants.

Case No. 4:18-cv-3014

Adams County District Court
Case No. CI 16-152

**NOTICE OF REMOVAL AND
REQUEST FOR TRIAL
IN LINCOLN, NEBRASKA**

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

Defendants, John and Jane Doe(s) 1 Through 10 (“Does”), Rick Schmidt (“Schmidt”), Raelee Van Winkle (“Winkle”), Jerry Esch (“Esch”), Michael Doremus (“Doremus”), Kelly Scarlett (“Scarlett”), and Allen Sedlak (“Sedlak”) (collectively “Defendants”), by and through counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, hereby remove this action from the District Court of Adams County, Nebraska, to the United States District Court for the District of Nebraska. The grounds for removal are:

1. On January 2, 2018, Irma Perez, John Espino, Joshua Espino, Jeremy Espino, and Manuel Espino filed a Second Amended Complaint against Does, Schmidt, Winkle, Esch, Doremus, Scarlett, and Sedlak in the District Court of Adams County, Nebraska, captioned as *Irma Perez, et al., v. John and Jane Doe(s) 1 through 10, et al.*, Case No. CI 16-152 (hereinafter “the Action”).

2. The Action is now pending before the District Court of Adams County, Nebraska.

3. This Court is the judicial district embracing the place where the Action is pending. *See* 28 U.S.C. § 1441 and 1446.

4. The Action asserts an action “brought pursuant to Title 42 U.S.C. § 1983” (“Section 1983 Claim”) claiming violations of the “First, Sixth, Eighth, and Fourteenth Amendments to the Constitution of the United States and the laws of the United States.” (Second Amended Compl. ¶¶ 40 and 42.)

5. The United States District Court has original jurisdiction to the Section 1983 Claim pursuant to 28 U.S.C. § 1331.

6. Title 28 U.S.C. § 1441 provides the right to remove this matter from the District Court of Adams County, Nebraska, to the United States District Court of the District of Nebraska.

7. Plaintiffs’ Second Amended Complaint was served on the Defendants’ counsel on or after January 3, 2018, which is the first date the Defendants received this pleading setting forth the claim for relief upon which the Action is based.

8. This Notice of Removal has been filed within thirty days after the Defendants’ receipt of a copy of the pleading setting forth the claim for relief upon which the Action is based. *See* 28 U.S.C. § 1446(b).

9. Pursuant to 28 U.S.C. § 1446(a), the Defendants attach as Exhibit “A” to this Notice of Removal, and incorporate by reference, a copy of all process, pleadings and orders served upon the Defendants in the Action.

10. Promptly upon filing this Notice of Removal, the Defendants shall give notice in writing thereof to Plaintiffs’ attorney of record and shall file a copy of this Notice of Removal with the Clerk of the District Court of Adams County, Nebraska.

11. Defendants respectfully request that trial be held in Lincoln, Nebraska, pursuant to NECivR 40.1(b).

WHEREFORE, John and Jane Doe(s) 1 Through 10, Rick Schmidt, Raelee Van Winkle, Jerry Esch, Michael Doremus, Kelly Scarlett, and Allen Sedlak, hereby give notice of the removal of this case from the District Court of Adams County, Nebraska to this Court, and request the trial be held on all triable issues in Lincoln, Nebraska.

DATED this 26th day of January, 2018.

JOHN and JANE DOE(S) 1 THROUGH 10; RICK SCHMIDT; RAELEE VAN WINKLE; JERRY ESCH; MICHAEL DOREMUS; KELLY SCARLETT; and ALLEN SEDLAK, All of Whom Are Named Defendants In Their Individual Capacity, Defendants

By: WOODS & AITKEN LLP
JERRY L. PIGSLEY, #16639
301 South 13th Street, Suite 500
Lincoln, NE 68508-2578
Telephone: (402) 437-8500
jpigsley@woodsaitken.com

By: s/ Jerry L. Pigsley
One of Said Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to Plaintiffs' attorney, Terry K. Barber, and by first-class United States mail, postage prepaid upon the following Plaintiffs' attorney:

Terry K. Barber, Esq.
Barber & Barber, P.C., L.L.O.
300 North 44th Street, Suite 205
P.O. Box 4555
Lincoln, NE 68504-0555

s/ Jerry L. Pigsley
One of Said Attorneys